

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6784

BILL NUMBER: SB 394

NOTE PREPARED: Jan 11, 2014

BILL AMENDED:

SUBJECT: Consumer Protection.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes various changes to consumer protection provisions enforced by the Attorney General, including: (1) enforcement of investigative demands by the Attorney General; (2) acceptance of written assurance of voluntary compliance for certain violations concerning nonprofit corporations; and (3) changes to the definition of "consumer transaction" and to acts, omissions, and practices by a supplier that are prohibited in connection with consumer transactions for purposes of the deceptive consumer sales law.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Office of Attorney General (AG):* The bill's provisions may assist the AG in resolving some of their current investigations and may result in additional actions brought by the AG.. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: *Investigative Demands:* This bill allows the courts to impose certain sanctions on foreign corporations and nonresident individuals if they fail or refuse to comply with a written demand. In addition, the bill allows the courts to hold a person in contempt if they fail or refuse to obey a final order. Any increase in revenue is indeterminable, but expected to be small. [The penalty for contempt is a fine or a term of incarceration, or both. Fines collected for indirect contempt of court are deposited in the state General Fund.]

Deceptive Acts: The bill includes a provision stating that suppliers committing an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction are in violation of the

consumer sales statute. It also states that violations of Rule 9.2 of Indiana Rules of Trial Procedure by a supplier or debt collector constitute a deceptive act. Both changes may increase the number of actions for deceptive acts brought by the AG.

By increasing the number of deceptive acts, this bill may increase revenue to the General Fund from civil penalties. Under current law, the violation for a deceptive act is punishable with a civil penalty of \$500 per violation. Knowingly committing a deceptive act is punishable with a civil penalty of \$5,000 per violation. The actual increases in revenue are indeterminable.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$7) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Additional Information - Rule 9.2 of Indiana Rules of Trial Procedure requires parties to file an Affidavit of Debt if the case is based on an account. This includes all types of accounts not just written accounts. The Affidavit of Debt must include details about the debt and affirmations that the defendant is not a minor or incompetent.

Explanation of Local Expenditures: If the bill increases the number of people found in contempt, it could result in additional incarcerations at county jails. The average daily cost of incarceration in a county jail is about \$44 a day. The actual increases are unknown but expected to be negligible.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the

lawsuit.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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